

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1135**

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**Introduced by Assembly Member Mullin**

February 22, 2013

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An act to amend Section 3106 of, and to repeal and add Section 3019 of, the Elections Code, relating to elections.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1135, as amended, Mullin. Vote by mail ballots: signature verification.

Existing law sets forth procedures for processing vote by mail ballots and requires that a county elections official, upon receiving a vote by mail ballot, compare the signature on the vote by mail ballot's identification envelope with the signature on the voter's affidavit of registration or the signature on the voter's application for a vote by mail ballot, as specified.

This bill would revise and recast these provisions and would provide that a county elections official would also be permitted to compare the signature on the identification envelope with the signature appearing ~~on any specified supporting document that contains the voter's signature and is part of the voter's registration record~~ *a form issued by an elections official that contains the voter's signature, that is part of the voter's registration record, and that the elections official has determined meets specified criteria.*

Existing law sets forth procedures for voting by military or overseas voters, as defined, and permits a military or overseas voter to return his or her ballot by facsimile transmission, accompanied by an oath of voter declaration that includes the voter's signature. Existing law requires that a county elections official, upon receiving the ballot of a military or overseas voter returned by facsimile transmission, compare the signature on the oath of voter declaration with the signature on the voter's affidavit of registration.

This bill would provide that a county elections official would also be permitted to compare the signature on the oath of voter declaration with the signature appearing on ~~any specified supporting document that contains the voter's signature and is part of the voter's registration record~~ *the form issued by the elections official that is described above.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3019 of the Elections Code is repealed.
- 2 SEC. 2. Section 3019 is added to the Elections Code, to read:
- 3 3019. (a) Upon receipt of a vote by mail ballot, the elections
- 4 official shall compare the signature on the identification envelope
- 5 with any of the following to determine whether the signatures
- 6 compare:
- 7 (1) The signature appearing on the voter's affidavit of
- 8 registration *or any previous affidavit of registration of the voter.*
- 9 ~~(2) The signature appearing on the voter's vote by mail ballot~~
- 10 ~~application, provided the elections official has compared the~~
- 11 ~~signature on the voter's vote by mail ballot application with the~~
- 12 ~~signature on the voter's affidavit of registration pursuant to Section~~
- 13 ~~3009.~~
- 14 ~~(3) The signature appearing on any one of the following~~
- 15 ~~supporting documents that contains the voter's signature and is~~
- 16 ~~part of the voter's registration record:~~
- 17 ~~(A) A form for use by a military or overseas voter pertaining~~
- 18 ~~to the voter's identity, eligibility to vote, and status as a military~~
- 19 ~~or overseas voter, as specified in Section 3101.~~
- 20 ~~(B) A form designed to permit a voter to opt out of receiving~~
- 21 ~~election materials, as specified in Section 13300.7.~~

1     ~~(C) A form designed to indicate a voter's preference for ballot~~  
2     ~~materials in a language other than English.~~

3     ~~(D) A form containing corrected voter information and submitted~~  
4     ~~at a polling place.~~

5     ~~(E) A form confirming a voter's change of address or residency~~  
6     ~~information.~~

7     *(2) The signature appearing on a form issued by an elections*  
8     *official that contains the voter's signature, that is part of the voter's*  
9     *registration record, and that the elections official has determined*  
10    *compares with the signature on the voter's affidavit of registration*  
11    *or any previous affidavit of registration of the voter.*

12    *(3) The signature appearing on a form issued by an elections*  
13    *official that contains the voter's signature, that is part of the voter's*  
14    *registration record, and that the elections official has determined*  
15    *compares with the signature on the voter's affidavit of registration*  
16    *or any previous affidavit of registration of the voter through a*  
17    *series of signatures in the voter's registration record that have*  
18    *been determined to compare.*

19    (b) In comparing signatures pursuant to subdivision (a), the  
20    elections official may use the duplicate file of affidavits of  
21    registered voters or facsimiles of voters' signatures, provided that  
22    the method of preparing and displaying the facsimiles complies  
23    with the law.

24    (c) (1) If upon conducting the comparison of signatures pursuant  
25    to subdivision (a) the elections official determines that the  
26    signatures compare, he or she shall deposit the ballot, still in the  
27    identification envelope, in a ballot container in his or her office.

28    (2) If upon conducting the comparison of signatures pursuant  
29    to subdivision (a) the elections official determines that the  
30    signatures do not compare, the identification envelope shall not  
31    be opened and the ballot shall not be counted. The cause of the  
32    rejection shall be written on the face of the identification envelope.

33    (d) The variation of a signature caused by the substitution of  
34    initials for the first or middle name, or both, shall not be grounds  
35    for the elections official to determine that the signatures do not  
36    compare.

37    (e) A ballot shall not be removed from its identification envelope  
38    until the time for processing ballots. A ballot shall not be rejected  
39    for cause after the identification envelope has been opened.

40    SEC. 3. Section 3106 of the Elections Code is amended to read:

3106. (a) A military or overseas voter who is living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by mail ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission shall be received by the voter's elections official no later than the closing of the polls on election day and shall be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

"OATH OF VOTER

I, \_\_\_\_\_, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is \_\_\_\_\_.  
(Street Address) (City) (ZIP Code)

My current mailing address is \_\_\_\_\_.  
(Street Address) (City) (ZIP Code)

My email address is \_\_\_\_\_. My facsimile transmission number is \_\_\_\_\_.

I am a resident of \_\_\_\_\_ County, State of California, or am qualified as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of the Elections Code and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

1 (Signature) \_\_\_\_\_  
2 (voter) (power of attorney cannot be accepted)  
3

4 YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE  
5 ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND  
6 IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED  
7 BY FACSIMILE TRANSMISSION.”  
8

9 (b) Notwithstanding the voter’s waiver of the right to a secret  
10 ballot, each elections official shall adopt appropriate procedures  
11 to protect the secrecy of ballots returned by facsimile transmission.

12 (c) Upon receipt of a ballot returned by facsimile transmission,  
13 the elections official shall determine the voter’s eligibility to vote  
14 by comparing the signature on the return information with the  
15 signature on the voter’s affidavit of registration or any supporting  
16 document that contains the voter’s signature and is part of the  
17 voter’s registration record, in accordance with *signature permitted*  
18 *for comparison under* Section 3019. The ballot shall be duplicated  
19 and all materials preserved according to procedures set forth in  
20 this code.

21 (d) Notwithstanding subdivision (a), a military or overseas voter  
22 who is permitted to return his or her ballot by facsimile  
23 transmission is, nonetheless, encouraged to return his or her ballot  
24 by mail or in person if possible. A military or overseas voter should  
25 return a ballot by facsimile transmission only if doing so is  
26 necessary for the ballot to be received before the close of polls on  
27 election day.

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